

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 CARL ALONZO BROOKS,

11 Plaintiff,

v.

12 COREY ENDO and NANCY TENNEY,

13 Defendants.

14 CASE NO. C18-0658-JCC

ORDER

15 This matter comes before the Court on Plaintiff's motion for order recalling previous
16 dismissal and request to sanction defendants (Dkt. No. 16).¹ On July 9, 2018, the Court adopted
17 United States Magistrate Judge Brian Tsuchida's report and recommendation and dismissed
18 Plaintiff's 28 U.S.C. section 1983 complaint with prejudice (Dkt. No. 14). In his civil rights
19 complaint, Plaintiff alleged that his former public defenders, Defendants Endo and Tenney,
20 omitted information from a brief they filed on behalf of Brooks with the Ninth Circuit Court of
21 Appeals in 2006. (Dkt. No. 3 at 2.) Plaintiff's claims failed for at least two reasons—they were
22 time barred, and Defendants, acting in their capacity as public defenders, were immune from
23 liability. (See Dkt. No. 14.)

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25 ¹ The Court notes that Plaintiff's motion is extremely difficult to read because the text
26 appears to have been washed out when the document was scanned. Nevertheless, the Court was
able to read enough of the motion to glean Plaintiff's request.

1 In his present motion, Plaintiff asks the Court to vacate its dismissal of his complaint and
2 to sanction Defendants for their “willful, intentional, reckless, and deliberate indifference.” (Dkt.
3 No. 16 at 1.) Plaintiff fails to provide a basis for either request.

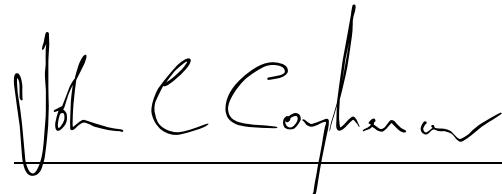
4 “On motion and just terms, the court may relieve a party or its legal representative from a
5 final judgment, order, or proceeding for the following reasons . . . fraud (whether previously
6 called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party.” Fed. R.
7 Civ. P. 60(b)(3). While Plaintiff asserts that Defendants committed “extrinsic fraud on the
8 court,” he provides no facts to support that claim. (Dkt. No. 16 at 1.) Nor does Plaintiff explain
9 how Defendants’ alleged fraud would require the Court to vacate its judgment dismissing
10 Plaintiff’s section 1983 complaint. As with his prior objections, Plaintiff fails to explain why his
11 claims should not be time barred or why Defendants are not immune from liability.

12 Plaintiff’s request for sanctions is similarly unsupported. Most of Plaintiff’s motion deals
13 with Defendants’ alleged failure to raise certain arguments during a prior appeal with the Ninth
14 Circuit in 2006. As the Court concluded in its prior order, Defendants’ alleged conduct did not
15 provide a basis for relief—nor does it provide a basis for sanctions. (*See* Dkt. No. 14.) Plaintiff’s
16 request for sanctions is really just an attempt to relitigate the merits of his civil rights complaint.
17 However, the Court has already dismissed that case with prejudice. (*See* Dkt. No. 14.)

18 For the foregoing reasons, Plaintiff’s motion (Dkt. No. 16) is DENIED. The Clerk is
19 DIRECTED to mail a copy of this order to Plaintiff.

20 DATED this 22nd day of October 2018.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE